

Environmental Protection Agency: Appropriations for FY2006

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Summary

Early in the first session, the 109th Congress eliminated the Veterans Affairs, Housing and Urban Development (VA-HUD), and Independent Agencies appropriations subcommittee and moved funding jurisdiction for the Environmental Protection Agency (EPA) to the Interior subcommittee. As enacted in August 2005, Title II of the Interior, Environment, and Related Agencies Appropriations Act for FY2006 (P.L. 109-54, H.R. 2361) provided \$7.73 billion for EPA, subject to an across-the-board rescission of 0.476%. The appropriation included an additional \$80 million in unobligated funds “rescinded” from past appropriations. Overall, P.L. 109-54 provided more funding for EPA than the Administration’s FY2006 request of \$7.52 billion, but less than the FY2005 appropriation of \$8.03 billion. Among individual programs, funding decreased for some activities and increased for others, compared with the FY2006 request and the FY2005 appropriation.

At the end of the first session, the 109th Congress enacted a government-wide rescission in the Department of Defense Appropriations Act for FY2006 (P.L. 109-148, H.R. 2863). This rescission reduced FY2006 funding for EPA and all other federal agencies by 1%, except for the Department of Veterans Affairs and excluding “emergency” spending. P.L. 109-148 also reallocated \$8 million in emergency funds to EPA for responding to leaking underground tanks in areas affected by Hurricane Katrina. The Administration had recommended \$15 million for this purpose in October 2005, as part of a \$17.1 billion reallocation of emergency funds. The law did not include the \$166 million rescission for EPA’s clean water State Revolving Fund (SRF) that the Administration also had proposed in October, as part of a \$2.3 billion rescission affecting numerous federal agencies.

In the debate over the Interior bill, considerable attention focused on the adequacy of federal assistance to states to support the clean water and drinking water SRFs. States use these funds to issue loans to communities for constructing and upgrading wastewater and drinking water infrastructure to meet federal requirements. Prior to the two rescissions noted above, P.L. 109-54 provided \$900 million for the clean water SRF, an increase above the Administration’s request of \$730 million, but a decrease below the FY2005 appropriation of \$1.09 billion. P.L. 109-54 also provided \$850 million for the drinking water SRF, which was the same as the Administration had requested and similar to the FY2005 appropriation, prior to the two above rescissions.

Other prominent issues in the debate over FY2006 appropriations for EPA included the adequacy of funding for the cleanup of hazardous waste sites under the Superfund program, the cleanup of commercial and industrial sites referred to as brownfields, EPA’s homeland security activities, “congressional project priorities” or earmarks, and EPA’s use and consideration of intentional human dosing studies for determining potential human health risks from exposure to pesticides. There also were varying levels of interest in numerous other activities funded within EPA’s accounts. This report reflects final congressional action on FY2006 appropriations for EPA and will not be updated.

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Introduction

On August 2, 2005, the President signed the Interior, Environment, and Related Agencies Appropriations Act for FY2006 (P.L. 109-54, H.R. 2361).¹ Title II of P.L. 109-54 provided \$7.73 billion for the Environmental Protection Agency (EPA), subject to an across-the-board rescission of 0.476%. The President signed the Department of Defense Appropriations Act for FY2006 (P.L. 109-148, H.R. 2863) on December 30, 2005, which included a 1% government-wide rescission, further reducing EPA's final appropriation. Even after both rescissions, the FY2006 appropriation for EPA is an increase above the Administration's request of \$7.52 billion, but a decrease below the FY2005 appropriation of \$8.03 billion.

There were varying degrees of interest in specific programs and activities funded within EPA's appropriation. Among the prominent issues in the debate over the Interior bill were the adequacy of funding for wastewater infrastructure, cleanup of hazardous waste sites under the Superfund program, cleanup of commercial and industrial sites referred to as brownfields, EPA's homeland security activities, and "congressional project priorities" or earmarks. In addition to funding, another issue receiving significant attention was EPA's use and consideration of intentional human dosing studies for determining potential human health risks from exposure to pesticides.

The following sections explain the methodology used in this report for funding comparisons, provide background information on the history and mission of EPA, include a brief overview of the President's FY2006 budget request for EPA, discuss congressional action on appropriations in the first session of the 109th Congress, and examine funding levels and relevant issues for selected programs and activities by EPA appropriations account. (For a discussion of broader issues relevant to the statutes and programs that EPA administers, see CRS Issue Brief IB10146, *Environmental Protection Issues in the 109th Congress*. For a discussion of FY2005 funding, see CRS Report RL32441, *Environmental Protection Agency: Appropriations for FY2005*.)

Methodology

In general, the term *appropriations* used in this report refers to total funds available, including regular annual and supplemental appropriations, as well as rescissions, transfers, and deferrals, but excludes permanent budget authorities. FY2006 appropriations presented in this report have not been adjusted to account for the 0.476% rescission required in P.L. 109-54, nor for the 1% government-wide rescission required in P.L. 109-148. The White House's Office of Management and Budget (OMB) is responsible for applying rescissions to the budgets of affected agencies, including EPA, adjusting the amounts that Congress indicates in final appropriations bills and accompanying reports.

Funding increases and decreases noted in this report are generally calculated based on comparisons among final FY2006 funding levels prior to the two rescissions above, House and Senate amounts prior to conference, the Administration's FY2006 request, and appropriations enacted for FY2005.² Requested and appropriated funding amounts presented throughout this report have not been adjusted for inflation. In some cases, small increases above the previous year funding may actually reflect a decrease when adjusted for inflation.

¹ For information on each of the agencies funded in this law, see CRS Report RL32893, *Interior, Environment, and Related Agencies: FY2006 Appropriations*.

² The FY2005 amounts presented in this report reflect a 0.8% across-the-board rescission, as required in the Consolidated Appropriations Act for FY2005 (P.L. 108-447, H.R. 4818). (See CRS Report RS21983, *FY2005 Consolidated Appropriations Act: Reference Guide*.)

FY2006 appropriations amounts indicated in this report are from the final bill and conference report on H.R. 2361 and from the House- and Senate-passed versions of this bill and their accompanying reports. The House Committee on Appropriations is the primary source of the funding figures used throughout this report for FY2005 enacted amounts and the Administration's FY2006 request. Other sources of information include the Congressional Record, the *U.S. Environmental Protection Agency FY2006 Justification of Appropriation Estimates for the Committee on Appropriations* (referred to throughout this report as the EPA FY2006 budget justification), and OMB's *Budget of the U.S. Government: FY2006*.

History and Mission of EPA

The Nixon Administration established EPA in 1970 in response to growing public concern about environmental pollution, consolidating federal pollution control responsibilities that had been divided among several agencies. EPA's responsibilities have grown as Congress has enacted an increasing number of environmental laws, as well as major amendments to these statutes, over three decades. Annual appropriations provide the funds necessary for EPA to carry out its responsibilities under these laws, such as the regulation of air and water quality, use of pesticides and toxic substances, management and disposal of solid and hazardous wastes, and cleanup of environmental contamination. EPA also awards grants to assist state, tribal, and local governments in controlling pollution in order to comply with federal laws. (For discussion of these laws, see CRS Report RL30798, *Environmental Laws: Summaries of Major Statutes Administered by the Environmental Protection Agency (EPA)*).

Figure 1, below, provides a history of discretionary budget authority for EPA from FY1970 through FY2006, both adjusted and not adjusted for inflation. EPA's funding trends over the history of the agency generally reflect the evolution of statutory responsibilities and authorities enacted by Congress in response to a range of environmental concerns. In terms of the overall federal budget, EPA's annual appropriation has represented a relatively small portion of total discretionary budget authority (just under 1% in recent years). EPA's funding has grown from \$1.0 billion when EPA was established in FY1970 to a high of \$8.4 billion in FY2004.

Figure 1. EPA Discretionary Budget Authority FY1970-FY2006: Adjusted and Not Adjusted for Inflation
(billions of dollars)

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Source: Prepared by the Congressional Research Service based on amounts in P.L. 109-54, and data from the Office of Management and Budget, *The Budget of the U.S. Government FY2006: Historical Tables*, Table 5.4, "Discretionary Budget Authority by Agency 1976-2006," pp. 95-96, and Table 10.1, "Gross Domestic Product and Deflators Used in the Historical Tables 1940-2009: GDP (Chained) Price Index," pp. 184-185. Amounts for FY1970-FY1975 are from *The Budget of the U.S. Government* for fiscal years 1972-1977, "Budget Authority and Outlays by Agency" tables.

President's FY2006 Budget Request

President Bush submitted his initial FY2006 budget request to Congress on February 7, 2005.³ The request included \$7.52 billion for EPA, \$506 million less than the \$8.03 billion FY2005 appropriation. As in past years, the total request was divided among eight different accounts to

³ See <http://www.epa.gov/ocfo/budget/index.htm>. Also see OMB's *Budget of the U.S. Government: FY2006*, at <http://www.whitehouse.gov/omb/budget/fy2006>.

which Congress traditionally allocates funding in the annual appropriations bills, listed in **Table 2** below. EPA also presented its budget request in the form of performance goals, as required by the Government Performance and Results Act of 1993 (GPRA, P.L. 103-62). EPA reduced its number of goals from 10 to 5 in its FY2005 budget justification. The agency presented its FY2006 justification according to these same five goals:

- Goal 1: Clean Air and Global Climate Change;
- Goal 2: Clean and Safe Water;
- Goal 3: Land Preservation and Restoration;
- Goal 4: Healthy Communities and Ecosystems; and
- Goal 5: Compliance and Environmental Stewardship.

Related to these goals, the Administration also uses OMB's Performance Assessment Rating Tool (PART) to measure the performance of federal programs. OMB issued PART ratings for 32 EPA programs, which were used in the formulation of the Administration's FY2006 request. (For further discussion of the PART, see CRS Report RS21416, *The President's Management Agenda: A Brief Introduction*.)

The largest proposed decrease in the President's initial request for EPA was for grants to states for wastewater infrastructure projects. The President submitted a subsequent request on October 28, 2005, to rescind \$166 million from EPA's FY2006 appropriation for wastewater infrastructure projects funded through the clean water State Revolving Fund (SRF). As discussed later, the rescission would have taken away nearly all of the increase that Congress provided for this purpose, reducing the appropriation close to what the Administration requested in February.

In addition to proposed reductions for some ongoing programs, the President's FY2006 budget did not include funding designated by Congress in FY2005 for individual projects, locations, or institutions (often referred to as "earmarked funding") within EPA's appropriations accounts. This is consistent with past Administrations' budget requests. According to OMB, the President's FY2006 budget did not include \$489 million appropriated in FY2005 for "unrequested projects."⁴ More than half of these appropriated funds were for water infrastructure projects. In the FY2006 appropriation, Congress restored earmarked funding for many of these projects and designated new earmarked funding for others as well.

Although the President's budget proposed decreases for some programs relative to FY2005, it included steady or increased funding for other activities, such as cleanup of Superfund sites, cleanup and redevelopment of brownfields, homeland security, and several grant programs for scientific research on human health effects. The Administration submitted a subsequent request on October 28, 2005, that would have increased overall funds available to EPA by \$15 million through a reallocation of emergency spending for disaster relief in Gulf Coast states affected by Hurricanes Katrina and Rita, of which Congress reallocated \$8 million to EPA in the FY2006 Defense appropriations bill. This reallocated funding was targeted for EPA's response to leaking underground tanks in hurricane-affected areas.

Congressional Action on Appropriations

Early in the 109th Congress, the House Appropriations Committee reduced the number of its subcommittees from 13 to 10. The Senate Appropriations Committee also approved the

⁴ Office of Management and Budget, *Major Savings and Reforms in the President's 2006 Budget*, February 11, 2005. See <http://www.whitehouse.gov/omb/budget/fy2006>.

elimination of one of its subcommittees, leaving 12. Both reorganizations eliminated the Veterans Affairs, Housing and Urban Development (VA-HUD), and Independent Agencies subcommittee, which historically had funding jurisdiction over EPA. As a result of this reorganization, the House and Senate incorporated EPA's funding within the jurisdiction of the Department of the Interior subcommittee, beginning with the FY2006 appropriation.

In the first session, the House and Senate passed the conference agreement on the Interior, Environment, and Related Agencies appropriations bill for FY2006 (H.R. 2361, hereafter referred to as the "Interior bill"). The President signed the final bill into law (P.L. 109-54) on August 2, 2005. Funding for EPA was included in Title II. **Table 1** indicates floor action in both chambers followed by enactment.

Table 1. Action on the Interior, Environment, and Related Agencies Appropriations Act for FY2006 (H.R. 2361)

Action	Date	Vote	Report Number
Original House Passage	May 19, 2005	329-89	H.Rept. 109-80
Original Senate Passage	June 29, 2005	94-0	S.Rept. 109-80
House Conference Passage	July 28, 2005	410-10	H.Rept. 109-188
Senate Conference Passage	July 29, 2005	99-1	
Enactment	Signed by the President August 2, 2005 (P.L. 109-54)		

Title II of P.L. 109-54 provided \$7.73 billion for EPA, subject to an across-the-board rescission of 0.476%.⁵ The House had proposed \$7.71 billion, and the Senate had proposed \$7.88 billion, neither of which included an across-the-board rescission. P.L. 109-54 also "rescinded" \$80.0 million from *past* fiscal year appropriations and treated these funds as an offset to increase EPA's total appropriation to \$7.81 billion, yielding the net amount of \$7.73 billion in *new* appropriations. The House-passed bill had included a \$100-million rescission of prior year appropriations, and the Senate-passed bill had included \$58.0 million. Overall, EPA's appropriation in P.L. 109-54 was an increase above the Administrations' request of \$7.52 billion, but a decrease below the FY2005 appropriation of \$8.03 billion.

At the end of the first session, the 109th Congress passed the conference agreement on the Department of Defense Appropriations Act for FY2006 (H.R. 2863, H.Rept. 109-359), and the President signed the bill into law (P.L. 109-148) on December 30, 2005. It included a government-wide rescission that reduced FY2006 funding for EPA and all other federal agencies by 1%, except for the Department of Veterans Affairs and excluded spending designated as an "emergency" requirement.⁶

P.L. 109-148 also reallocated \$8 million in emergency funds to EPA for responding to leaking underground tanks in Gulf Coast states affected by Hurricanes Katrina and Rita. As noted above, the Administration had recommended a \$15 million reallocation for this purpose on October 28,

⁵ Section 439 of Title IV of P.L. 109-54 required that the rescission be applied proportionately among each account, program, project, and activity specified in that law, accompanying reports, and the President's budget request.

⁶ Section 3801 of Title III of P.L. 109-148 required that the 1% rescission be applied to each account, program, project, and activity specified in that law, other FY2006 appropriations acts, accompanying reports, and the President's budget request.

2005. This recommendation was part of a proposal to reallocate \$17.1 billion among numerous federal agencies,⁷ which was provided in two supplemental appropriations acts (P.L. 109-61 and P.L. 109-62) for disaster relief in Gulf Coast states affected by the hurricanes.⁸

P.L. 109-148 did not include a \$166 million rescission for EPA's clean water State Revolving Fund (SRF). This fund provides federal assistance to states for issuing loans to communities for constructing and upgrading wastewater infrastructure to meet federal requirements, discussed later in this report. As indicated above, the Administration had requested this rescission on October 28, 2005, as part of a separate proposal to rescind \$2.3 billion in funding from "lower-priority federal programs and excess funds." The Administration indicated that the rescission was intended to help offset the "unprecedented cost" of disaster relief in hurricane-affected areas and to "control growth in discretionary spending."⁹

Earlier in the first session, on April 28, 2005, the House and Senate had passed the conference agreement on the FY2006 budget resolution (H.Con.Res. 95, H.Rept. 109-62), including budget authority (BA) for the Natural Resource and Environment Function (300). This function includes several federal land management agencies and EPA. This resolution provided the framework for the consideration of appropriations, and its amounts were nonbinding. The resolution included \$30.02 billion (BA) for function 300, but as in past years, it did not specify funding among individual agencies. Rather, funding levels for EPA and other federal agencies were determined in the appropriations process. For additional information on the FY2006 federal budget process, see CRS Report RL32791, *Congressional Budget Actions in 2005*, and CRS Report RL32812, *The Budget for Fiscal Year 2006*.

EPA's FY2006 Appropriation by Account

As in recent years, EPA's FY2006 appropriation is allocated among eight line-item accounts. **Table 2** identifies each account, the amounts proposed and enacted for FY2006, and the funding levels enacted for FY2005. **Figure 2** illustrates the portion of the enacted FY2006 appropriation allocated to each of the eight accounts. A discussion of specific activities and programs funded within each account and relevant issues follow.

Table 2. Environmental Protection Agency Appropriations Accounts: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations
(in millions of dollars)

Appropriations Account	FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
Science and Technology	\$744.1	\$760.6	\$765.3	\$730.8	\$741.7
+ transfer from Superfund account	+ \$35.8	+ \$30.6	+ \$30.6	+ \$30.6	+ \$30.6
Science and Technology Total	\$779.9	\$791.2	\$795.9	\$761.4	\$772.3

⁷ See OMB's website at <http://www.whitehouse.gov/omb/budget/amendments>.

⁸ See CRS Report RS22239, *Emergency Supplemental Appropriations for Hurricane Katrina Relief*, by Keith Bea.

⁹ See OMB's website at <http://www.whitehouse.gov/omb/budget/amendments>.

Appropriations Account	FY2005 Enacted	FY2006 Request	H.R. 2361 House- passed	H.R. 2361 Senate- passed	P.L. 109-54
Environmental Programs and Management	\$2,294.9	^a \$2,353.8	^a \$2,389.5	^a \$2,333.4	^a \$2,381.8
Office of Inspector General	\$37.7	\$37.0	\$38.0	\$37.0	\$37.5
+ transfer from Superfund account	+ \$12.9	+ \$13.5	+ \$13.5	+ \$13.5	+ \$13.5
Office of Inspector General Total	\$50.6	\$50.5	\$51.5	\$50.5	\$51.0
Buildings & Facilities	\$41.7	\$40.2	\$40.2	\$40.2	\$40.2
Hazardous Substance Superfund	\$1,247.5	\$1,279.3	\$1,258.3	\$1,256.2	\$1,260.6
—transfer to Office of Inspector General	—\$12.9	—\$13.5	—\$13.5	—\$13.5	—\$13.5
—transfer to Science and Technology	—\$35.8	—\$30.6	—\$30.6	—\$30.6	—\$30.6
Hazardous Substance Superfund (Net)	\$1,198.8	\$1,235.2	\$1,214.2	\$1,212.1	\$1,216.5
Leaking Underground Storage Tank Program	\$69.4	\$73.0	\$73.0	\$73.0	\$73.0
Oil Spill Response	\$15.9	\$15.9	\$15.9	\$15.9	\$15.9
Pesticide registration Fund	\$19.2	\$15.0	\$15.0	\$15.0	\$15.0
—Pesticide Registration Fees	—\$19.2	—\$15.0	—\$15.0	—\$15.0	—\$15.0
State and Tribal Assistance Grants: Total	\$3,575.3	\$2,960.8	\$3,127.8	\$3,395.6	\$3,181.7
Clean Water State Revolving Funds	\$1,091.2	\$730.0	\$850.0	\$1,100.0	\$900.0
—Funds Previously Appropriated to EPA ^b	—	—	(\$100.0)	—	—
Drinking Water State Revolving Funds	\$843.2	\$850.0	\$850.0	\$850.0	\$850.0
Other Grants	\$1,640.9	\$1,380.8	\$1,527.8	\$1,503.6	\$1,511.7
Funds Previously Appropriated to EPA ^b	—	—	—	(\$58.0)	(\$80.0)
Total EPA Accounts	\$8,026.5	\$7,520.6	\$7,708.0	\$7,882.1	\$7,732.4

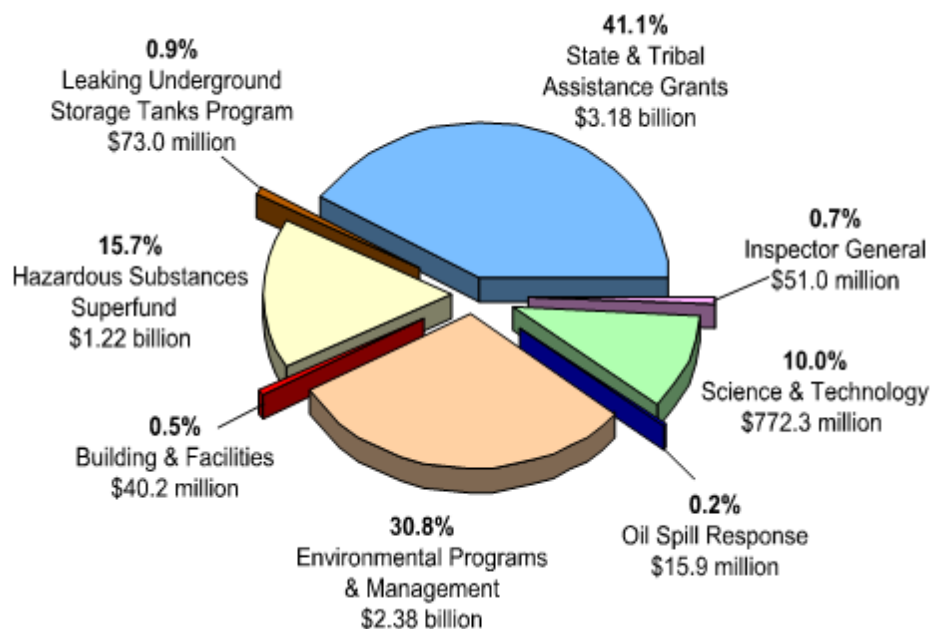
Source: Prepared by the Congressional Research Service (CRS) based on amounts indicated in P.L. 109-54, the conference report on H.R. 2361 (H.Rept. 109-188), and the House and Senate-passed versions of H.R. 2361 and their accompanying reports (H.Rept. 109-80 and S.Rept. 109-80, respectively). FY2005 enacted amounts reflect the 0.8% across-the-board rescission required by P.L. 108-447. FY2006 enacted amounts are line-items indicated in Title II of P.L. 109-54, which do not reflect the 0.476% across-the-board rescission required by P.L. 109-54, nor the 1% government-wide rescission required by P.L. 109-148. Numbers may not add due to rounding.

- Neither P.L. 109-54, nor H.R. 2361 as passed by the House or the Senate, included a \$50-million offset in receipts from toxics and pesticides fees that the Administration had proposed in its FY2006 budget request.
- The total for the State and Tribal Assistance Grants account includes an offset of \$80 million, per P.L. 109-54 (\$58 million in the Senate bill and \$100 million in the House bill), to be rescinded from prior year EPA appropriations not obligated for contracts, grants, and interagency agreements for which the funding authorization has since expired. P.L. 109-54 did not specify how the \$80 million in rescinded funds would be allocated among EPA activities in FY2006, nor did the Senate specify the allocation of the \$58 million in

rescinded funds in passing its version of H.R. 2361. As passed by the House, H.R. 2361 would have allocated \$100 million in rescinded funds for the clean water SRF for FY2006.

Figure 2. Environmental Protection Agency FY2006 Appropriations in Title II of P.L. 109-54, by Account

Total FY2006 Appropriation = \$7.73 Billion*



Source: Prepared by the Congressional Research Service (CRS) based on line-item amounts in P.L. 109-54, which do not reflect the 0.476% across-the-board rescission required in that law nor the 1% government-wide rescission required in P.L. 109-148.

Note: *P.L. 109-54 provided \$7.73 billion in new appropriations for EPA in FY2006 and rescinded \$80 million in unobligated funds that Congress had appropriated to EPA in prior years, redirecting these funds to FY2006 and thereby increasing total funding to \$7.81 billion.

Science and Technology

Prior to the 0.476% and 1% rescissions, P.L. 109-54 provided \$772.3 million for the Science and Technology (S&T) account for FY2006. The final appropriation was more than the Senate had proposed but less than the House amount, the Administration's request, and the FY2005 appropriation. Prior to the two rescissions, the S&T appropriation included a transfer of \$30.6 million from the Hazardous Substances Superfund account to support research related to cleanup of hazardous substances (discussed later in this report). The FY2005 appropriation included a transfer of \$35.8 million from the Superfund account. Similar transfers have been made in prior year appropriations.

Table 3. Science and Technology Account: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations
(millions of dollars)

FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
\$779.9	\$791.2	\$795.9	\$761.4	\$772.3

Note: Amounts indicate net S&T funding levels after the transfer of funds from the Hazardous Substance Superfund account. The FY2006 enacted amount does not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. The FY2005 enacted amount does reflect the 0.8% across-the-board rescission in P.L. 108-447.

Incorporating elements of the former Research and Development account in place until FY1996, the S&T account provides funding for developing the scientific knowledge and tools necessary to support decisions on preventing, regulating, and abating environmental pollution. It also supports efforts to advance the base of understanding for environmental sciences. These activities are conducted through contracts, grants, and cooperative agreements with universities, industries, other private commercial firms, nonprofit organizations, state and local government, and federal agencies, as well as through work performed at EPA laboratories and various field stations and offices. Recent congressional debate regarding the funding for scientific research administered by EPA and other federal agencies has often focused on the question of whether these agencies' actions are based on "sound science," and how scientific research is applied in developing federal policy.

Relative to the Administration's FY2006 request and the FY2005 appropriation, P.L. 109-54 contained significant increases for some activities and programs within this account, while calling for sizeable decreases or steady funding in others. The FY2006 request for funding in the S&T account generally reflected the Administration's priorities across the various media programs (air, water, etc.) based, in part, on recent proposed and final rulemakings affecting air quality, and water quality. The FY2006 request also reflected priorities for broader cross-media analytical research areas, such as risks to children and other sub-populations.

The following sections discuss funding issues regarding scientific research, and funding levels for specific research activities administered by EPA for which there has been ongoing interest among Members of Congress, scientists, stakeholders, and various interest groups

Human Testing

Section 201 of P.L. 109-54 included an administrative provision prohibiting EPA's use of FY2006 appropriations to conduct or to accept, consider, or rely on third-party, intentional human dosing studies for pesticides until the agency issues relevant final rulemaking on the subject. The provision further stipulated that the final EPA rule will not permit pregnant women, infants, and children to be used as subjects in such testing, and will be consistent with National Academy of Sciences (NAS) 2004 recommendations¹⁰ and human experimentation principles of the Nuremberg Code.¹¹ The provision included in P.L. 109-54 reflects a combination of a Senate-adopted amendment regarding the rulemaking, and identical House and Senate-adopted

¹⁰ For more information on EPA's efforts, as well as a direct link to the National Academy of Sciences Report "Intentional Human Dosing Studies for EPA Regulatory Purposes: Scientific and Ethical Issues," National Academies Press, Washington DC, see <http://www.epa.gov/oppfead1/guidance/human-test.htm>.

¹¹ For a brief description of the Nuremberg Code, see Appendix B of CRS Report RL32909, *Federal Protection for Human Research Subjects: An Analysis of the Common Rule and Its Interactions with FDA Regulations and the HIPAA Privacy Rule*, by Erin D. Williams.

amendments that would have prohibited EPA's use of FY2006 funds to conduct or consider intentional human dosing studies for pesticides for the entire fiscal year. As reflected in the House and Senate floor debate (*Congressional Record*, H3671 and S7552-S7561) and amendments adopted during the debates, there is significant interest in Congress regarding EPA's policies for use of intentional human dosing studies in regulatory decision making for pesticides.

Some manufacturers, scientists, and Members assert that human dosing studies provide valuable scientific evidence regarding risks of certain chemicals that cannot be obtained with non-human research. Others recognize the potential value and validity of such studies but advocate the establishment of strict safeguards and protocols to protect the health of those subjects participating in such studies. Some scientists, public interest groups, and other Members counter that, given ethical questions and potential economic motivation, caution and substantial further evaluation is needed to ensure that alternative approaches have been exhausted. Others suggest that purposefully exposing humans is not worth the potential risk under any circumstances.

Research/Congressional Priorities (Earmarks)

In past EPA appropriations, Congress has designated funds for individual projects, locations, or institutions (often referred to as earmarked funding¹²) within the various accounts. P.L. 109-54 provided less earmarked funding within EPA's FY2006 appropriation than Congress provided in FY2005. The conference report on H.R. 2361 identified earmarked funding for specific projects in FY2006 within three accounts: S&T, Environmental Programs and Management, and State and Tribal Assistance Grants (see discussions of these two latter accounts later in this report).

Prior to the two rescissions, EPA's FY2006 appropriation included \$33.3 million in earmarked funding within the S&T account for "Research/Congressional Priorities" (H.Rept. 109-188, p. 100). The House had proposed \$40 million, and the Senate had proposed \$50 million for these projects. The President's FY2006 request did not include any funding for such projects. Congress earmarked nearly \$66 million for specific projects within the S&T account for FY2005.

Unlike most grant funding, congressional earmarking of funds for specific projects traditionally has been awarded noncompetitively to designated recipients. In its report on H.R. 2361 (H.Rept. 109-80, pp. 105-106), the House Appropriations Committee had proposed a new practice for EPA in recommending a total amount for priority projects within the S&T and Environmental Programs and Management accounts, but allowing past recipients of earmarks to compete for these funds. The Senate Appropriations Committee opposed this approach in its report and recommended recipients of earmarked funding within these two accounts. The conferees disagreed with the House in the final bill, identifying individual projects, locations, or institutions to receive designated funds.

EPA and Homeland Security

FY2006 funding for EPA's homeland security activities is allocated within five of the eight EPA appropriations accounts: S&T, Environmental Programs and Management, Hazardous Substance Superfund, Building and Facilities, and State and Tribal Assistance Grants. This funding would support various activities including, critical water infrastructure protection, laboratory preparedness, decontamination, protection of EPA personnel and operations, and communication. For the five accounts combined, P.L. 109-54 provided less funding for EPA's homeland security activities than requested for FY2006, but more than Congress appropriated for FY2005. **Table 4**

¹² See CRS Report 98-518, *Earmarks and Limitations in Appropriations Bills*.

compares enacted and proposed funding for EPA homeland security activities in FY2006 with the FY2005 appropriation, within the five appropriations accounts.

Table 4. EPA Homeland Security Activities: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations

(millions of dollars)

EPA Appropriations Account	FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
S&T	\$32.8	\$93.8	\$50.8	\$39.6	\$50.8
EPM	\$20.1	\$23.4	\$23.4	\$21.4	\$23.4
Building & Facilities	\$11.4	\$11.5	\$11.5	\$11.5	\$11.5
Superfund	\$36.9	\$50.9	\$39.4	\$38.5	\$39.4
STAG	\$5.0	\$5.0	\$5.0	\$5.0	\$5.0
Total	\$106.2	\$184.6	\$130.1	\$116.0	\$130.1

Note: FY2006 enacted amounts do not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. FY2005 enacted amounts do reflect the 0.8% across-the-board rescission in P.L. 108-447.

The largest single reduction in P.L. 109-54 for EPA's homeland security activities relative to the President's FY2006 request was for funding within the S&T account to support a new water quality surveillance and monitoring project referred to as the "Water Sentinel Initiative." The Administration had requested \$44.0 million within the S&T account for this new initiative for FY2006. Prior to the two rescissions, P.L. 109-54 provided \$9.0 million for this initiative in FY2006, as the House had proposed. The Senate had proposed \$5.6 million.

The scope of the initiative is unclear based on the substantial reduction in FY2006 funding below the requested level. The requested funding level would have supported a demonstration pilot program in five major U.S. cities. This proposed pilot was intended as a precursor to a new national system for early detection of, and warning for, "dangerous" chemical and biological contaminants as potential terrorist threats to public drinking water systems.¹³

The conference report did not include directives or comment with regard to EPA's administering of its Water Sentinel Initiative at the funding level provided in P.L. 109-54. In its report on H.R. 2361 (H.Rept. 109-80, p. 94), the House Appropriations Committee recommended that EPA develop clear goals and milestones for this initiative and justify the request for the program more clearly for FY2007. The Senate Appropriations Committee report did not include similar recommendations or comment in its report.

Clean Air Act Research and Implementation (S&T)

EPA's implementation of and proposed changes to several Clean Air Act provisions, as well as efforts to address climate change, have been the subject of considerable debate among various stakeholders and Members of Congress. This has elevated interest in the level of funding for scientific research needed to understand the adequacy of air quality standards to protect human health, and the effectiveness of pollution controls to meet them. Prominent air quality issues include the adequacy of new ambient air quality standards for ozone and particulate matter, how

¹³ See, *Budget of the United States FY2006: Analytical Perspectives*, Table 3-1 p. 38, and *Environmental Protection Agency Budget for Fiscal Year 2006: Overview*, p. 285. <http://www.whitehouse.gov/omb/budget/fy2006/budget.html>.

best to reduce human exposure to mercury, and proposed regulations and legislation regarding the control of emissions from power plants, vehicles, and other sources. These issues are again being debated in the 109th Congress. (See CRS Issue Brief IB10137, *Clean Air Act Issues in the 109th Congress*, and CRS Report RL32755, *Air Quality: Multi-Pollutant Legislation in the 109th Congress*.)

As indicated in the conference report, the FY2006 EPA appropriation included \$212.4 million within the S&T account for various air quality activities for FY2006 prior to the two rescissions (H.Rept. 109-188, pp. 148-149). In comparison, Congress appropriated \$206.4 million for FY2005 within the S&T account for air quality programs. This funding supports various programmatic implementation, research, and monitoring activities focusing on air toxics and air quality, radiation, climate protection, and indoor air quality (including radon). P.L. 109-54 also provided funding for air quality activities in the accounts for Environmental Programs and Management, Hazardous Substance Superfund, and State and Tribal Assistance Grants. **Table 5** presents enacted and proposed funding within the S&T account for selected air quality activities.

Table 5. S&T Account Funding for Selected Air Quality Activities: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations
(millions of dollars)

Program Activity	FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
Federal Vehicle and Fuels Standards and Certification	\$57.4	\$66.6	\$59.6	\$61.4	\$59.6
Research: Global Change	\$19.6	\$20.5	\$20.5	\$19.6	\$19.9
Research: Particulate Matter	\$60.5	N/A	N/A	N/A	N/A
Research: Tropospheric Ozone	\$4.0	N/A	N/A	N/A	N/A
Research: NAAQS	N/A	\$71.5	\$71.5	\$65.4	\$69.5
Clean Air Allowance Trading (see also EPM account)	\$8.7	\$9.4	\$9.4	\$8.7	\$8.7
Climate Protection Program (see also EPM account)	\$19.0	\$17.7	\$20.0	\$17.7	\$19.0

Note: FY2006 enacted amounts do not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. FY2005 enacted amounts do reflect the 0.8% across-the-board rescission in P.L. 108-447. For FY2006, EPA had proposed to consolidate research on pollutants regulated under the National Ambient Air Quality Standards (NAAQS), such as particulate matter (PM) and tropospheric (ground-level) ozone, into one budget category, which is reflected in the conference, House, and Senate reports. PM and ozone NAAQS research funds were requested and appropriated as individual line items for FY2005. Under the Clean Air Act (42 U.S.C. 7408(a)(1)), the NAAQS are standards for ambient air that are intended to protect human health and the environment with an adequate margin of safety. There are NAAQS for six pollutants, including ozone, carbon monoxide, particulate matter, sulfur dioxide, nitrogen oxides, and lead.

In addition to funding, an administrative provision in Section 205 of Title II of P.L. 109-54 affects a pending EPA regulation to reduce emissions of new small engines (less than 50 horsepower).¹⁴ This provision is similar to language that the Senate had proposed. It prohibits the use of FY2006 funds provided in P.L. 109-54, or in any other act, to propose or finalize small engine emissions

¹⁴ Pursuant to §428(b) of Division G of P.L. 108-199, codified in 40 CFR part 90, subparts D and E. For more information on EPA's small non-road engines regulations, see <http://www.epa.gov/otaq/testingregs.htm>.

regulations until EPA completes a study of safety issues associated with compliance. Among these issues are potential risks of fire and burns to individuals. Existing state standards for small engines would not be affected by this provision. This issue was not addressed in the House-passed bill.

Environmental Programs and Management

Prior to the 0.476% and 1% rescissions, P.L. 109-54 provided \$2.38 billion for the Environmental Programs and Management (EPM) account for FY2006. The final appropriation was less than the House amount, but more than the Senate and Administration had proposed and Congress had appropriated for FY2005.

Table 6. Environmental Programs and Management Account: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations

(millions of dollars)

FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
\$2,294.9	\$2,353.8	\$2,389.5	\$2,333.4	\$2,381.8

Note: The FY2006 enacted amount does not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. The FY2005 enacted amount does reflect the 0.8% across-the-board rescission in P.L. 108-447. The FY2006 request included \$50 million in offsetting revenues from proposed changes to chemical and pesticide fee authorities, which Congress did not approve.

The EPM account has historically represented roughly one-third of EPA's budget. This account reflects the heart of the agency's regulatory, standard-setting, and enforcement efforts for various media programs such as water quality, air quality, and hazardous waste management. Appropriations within the EPM account fund the development of environmental standards, monitoring and surveillance of pollution conditions, federal pollution control planning, technical assistance to pollution control agencies and organizations, and compliance assurance and assistance. Many complex regulatory/standard setting issues are associated with this account. (See CRS Issue Brief IB10146, *Environmental Protection Issues in the 109th Congress*.)

Among individual programs and activities, P.L. 109-54 included a broad mix of increases and decreases within the EPM account, when compared with the President's FY2006 request and the FY2005 appropriation. In some cases, reductions below the President's request reflect increases compared with the FY2005 appropriation. In other cases, Congress reduced funding below the FY2005 appropriation, which the Administration had requested. In yet other cases, Congress maintained funding in FY2006 at or near FY2005 levels for activities that would have received a cut under the President's budget. Because there have been varying levels of interest in the many activities funded within the EPM account, the following sections discuss funding for selected activities that are illustrative of those in which there has been broader interest in Congress.

Brownfields Program Administration

Prior to the two rescissions, P.L. 109-54 included \$25.0 million in the EPM account for administrative expenses of the Brownfields Program, the same as the Senate had proposed. The House had proposed \$24.6 million; the FY2006 request included \$29.6 million; and Congress appropriated \$24.3 million for FY2005. This program provides assistance to states and tribes for assessment, cleanup, and planning for redevelopment of abandoned, idled, or underutilized commercial and industrial sites where hazardous contamination may be present. There has been strong interest among communities in increasing federal funding for these efforts. The EPM

account only funds the administrative expenses of the Brownfields Program. Grants for cleanup are funded out of the State and Tribal Assistance Grants account, discussed later in this report.

Environmental Education Program

Prior to the two rescissions, P.L. 109-54 included \$9.0 million within the EPM account for the Environmental Education Program, the same as the House had proposed and approximately the same as Congress appropriated in FY2004 and FY2005. The Senate had proposed \$7.0 million for FY2006. The President had proposed no funding for the Environmental Education Program in FY2006, as was the case in FY2003, FY2004, and FY2005. Congress has reinstated funding each fiscal year in response to widespread state and local support for grants to elementary and secondary schools awarded under this program.

The Administration used OMB's measurement of the program's effectiveness, the Performance Assessment Rating Tool (PART; see discussion earlier in this report), to justify its proposal to eliminate funding, asserting that the program has not demonstrated results. Advocates of the program counter that it has had a positive impact on a national level, awarding grants to elementary and secondary schools in all 50 states for training teachers, purchasing textbooks, developing curricula, and supporting other educational activities. (See CRS Report 97-97, *National Environmental Education Act of 1990: Overview, Implementation, and Issues for Congress*.)

Clean Air Act Research and Implementation (EPM)

As discussed earlier in this report under the "Science and Technology" account heading, EPA's implementation for several Clean Air Act provisions, as well as efforts to address climate change, have been of considerable interest to Members of Congress. P.L. 109-54 provided funding for several air quality activities within multiple EPA appropriations accounts, including the EPM account (H.Rept. 109-188, pp. 149-152). The law included a total of \$313.5 million within the EPM account for various air quality activities for FY2006 (H.Rept. 109-188, pp. 149-152). In comparison, Congress appropriated a total of \$298.3 million for FY2005 within this account for these activities. **Table 7** indicates enacted and proposed funding within the EPM account for several selected air quality activities in which there has been broader congressional interest.

Table 7. EPM Funding for Selected Air Quality Activities: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations

(millions of dollars)

Program Activity	FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
Methane to Markets Program	\$0.3	\$4.0	\$0.5	\$3.0	\$2.0
Federal Stationary Sources	\$21.8	\$23.5	\$23.5	\$23.5	\$23.5
Energy STAR	\$46.7	\$50.5	\$50.0	\$50.5	\$50.5
Clean Air Allowance Trading (see also S&T account)	\$16.9	\$18.2	\$18.2	\$18.2	\$18.2
Climate Protection Program (see also S&T account)	\$43.9	\$41.0	\$41.0	\$41.0	\$41.0
Clean Diesel Program	\$0.0	\$15.0	\$10.0	\$0.0	\$5.0
	\$88.2	\$95.9	\$95.9	\$88.2	\$90.9

Program Activity	FY2005 Enacted	FY2006 Request	H.R. 2361 House- passed	H.R. 2361 Senate- passed	P.L. 109-54
Federal Support for Air Quality Management (not including the Clean Diesel Program) (see also S&T)					
Note: FY2006 enacted amounts do not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. FY2005 enacted amounts do reflect the 0.8% across-the-board rescission in P.L. 108-447.					

Pesticide Registration and Chemical Manufacturing Fees

The President's FY2006 budget included \$50 million in the form of "anticipated" revenues (offsetting receipts) to be derived from changes to fees for pesticide registrations and for toxic chemical notices.¹⁵ P.L. 109-54, as well as the House and Senate-passed bills, did not include these anticipated revenues. Of the \$50 million in revenues proposed in the President's FY2006 budget, \$46 million would have been derived from pesticide registration fees, and \$4 million from notices for new chemicals (chemicals not currently manufactured or imported for commerce in the United States).¹⁶ The fee changes proposed in the request would have required congressional approval through the enactment of legislation. In its report, the House Appropriations Committee noted that no relevant legislation had been proposed and commented that EPA should not continue to spend time and resources proposing such actions in conflict with current authority (H.Rept. 109-80, p. 105-106).

The pesticide fees proposed by the Administration for FY2006 would have been in addition to those currently authorized under the Consolidated Appropriations Act for FY2004 (P.L. 108-199). The pesticide fees provisions in Section G, Title V of P.L. 108-199 are referred to as the Pesticide Registration Improvement Act (PRIA). Also in PRIA, Congress rescinded EPA's authority to collect other pesticide registration fees.¹⁷ Title II of P.L. 109-54 included an administrative provision authorizing the Administrator of EPA to collect and obligate pesticide registration service fees for FY2006 in accordance with Section 33 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by Subsection (f)(2) of PRIA), as amended. For additional information regarding pesticide registration and tolerance fees, see CRS Report RL32218, *Pesticide Registration and Tolerance Fees: An Overview*.

Earlier in the first session of the 109th Congress, language contained in an FY2005 supplemental appropriations act (Sec. 6033 of P.L. 109-13) banned EPA from going forward with rulemaking for collecting pesticide tolerance fees as rescinded by PRIA. The 108th Congress had rejected the President's FY2005 budget proposal to reinstate pesticide fees as prohibited in PRIA in the conference report on the Consolidated Appropriations Act for FY2005 (H.Rept. 108-792, Administrative Provisions, p. 1597).

¹⁵ Executive Office of the President, Office of Management and Budget, *Major Savings and Reforms in the President's 2006 Budget*, pp. 222-224. Available online at <http://www.whitehouse.gov/omb/budget/fy2006>.

¹⁶ Section 26(b) of the Toxic Substances Control Act authorizes fees to cover part of the cost to review pre-manufacturing notices.

¹⁷ In P.L. 108-199, Congress suspended authority for the collection of fees for establishing tolerances (maximum allowable limits of pesticides in food; "tolerance fees"), and continued the prohibition of collecting registration fees using other pre-existing authority (40 C.F.R. 152(u) and 172).

Environmental Protection/Congressional Priorities (Earmarks)

As discussed earlier in this report, P.L. 109-54 provided less earmarked funding than in FY2005 for individual projects, locations, or institutions. Earmarked funding is identified in the conference report on H.R. 2361 within the EPM, Science and Technology, and State and Tribal Assistance Grants accounts (see discussion regarding earmarks in these two latter accounts elsewhere in this report).

Prior to the two rescissions, EPA's FY2006 appropriation included \$50.5 million within the EPM account for "Environmental Protection/Congressional Priorities" (H.Rept. 109-188, pp. 102-103). The House had proposed \$40 million, and the Senate had proposed \$50 million. The FY2005 appropriation included \$92.3 million for these congressional priority projects. The President's FY2006 request did not include any funding for such projects.

As explained earlier, the conferees on H.R. 2361 did not agree to a House Appropriations Committee recommendation to require competitive solicitations for these projects within the EPM and Science and Technology accounts (H.Rept. 109-80, pp. 105-106). Rather, the conferees designated funding for specific projects or locations in its report on the final bill.

Geographic/Ecosystem Programs

The EPM account includes funding for several geographic/ecosystem programs to address certain environmental and human health risks. Members of Congress have expressed ongoing interest in the funding and oversight of these programs, as they potentially affect sizeable populations across many states. These programs often involve collaboration among EPA, state and local governments, communities, and nonprofit organizations. Enacted and proposed funding for selected geographic/ecosystem programs are shown in **Table 8**.

Table 8. EPM Funding for Selected Geographic/Ecosystem Programs: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations

(millions of dollars)

Geographic/Ecosystem Program	FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
National Estuary Program	\$24.8	\$19.4	\$24.4	\$21.0	\$24.4
Great Lakes Legacy Act	\$22.3	\$50.0	\$28.0	\$30.0	\$30.0
Great Lakes Program	\$21.3	\$21.5	\$21.5	\$22.0	\$21.5
Lake Champlain Basin Program	\$ 2.5	\$ 1.0	\$ 2.0	\$ 1.9	\$ 1.9
Chesapeake Bay Program	\$22.6	\$20.7	\$20.7	\$23.0	\$21.5
Gulf of Mexico Program	\$ 4.4	\$ 4.5	\$ 4.5	\$ 5.0	\$ 5.0
Long Island Sound Program	\$ 2.3	\$ 0.5	\$ 2.0	\$ 0.5	\$ 0.5
Puget Sound	\$ 0.0	\$0.0	\$ 2.0	\$ 0.0	\$ 2.0
Other Geographic Programs	\$ 6.9	\$13.2	\$ 7.2	\$ 7.8	\$ 8.8

Note: FY2006 enacted amounts do not reflect the 0.476% rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. FY2005 enacted amounts do reflect the 0.8% across-the-board rescission in P.L. 108-447.

Funding for the restoration of the Great Lakes has been of particular interest to many Members. As **Table 8** indicates, P.L. 109-54 provided significantly less funding than the FY2006 request,

but more than the FY2005 appropriation, to aid in the cleanup of contaminated sediments in the Great Lakes, as authorized by the Great Lakes Legacy Act of 2002 (Title I of P.L. 107-303).¹⁸ Although no specific comments regarding the Legacy program were included in the conference report on H.R. 2361, the House Appropriations Committee recommended in its report that EPA develop a clear plan for implementing the Legacy Act specifying how funding would support this plan in future budget requests (H.Rept. 109-80, p. 106). The primary purpose of this funding is to address persistently high concentrations of contaminants in the sediments of rivers and harbors, which have prompted concern about potential risk to aquatic organisms, wildlife, and humans.

Office of Inspector General

Prior to the 0.476% and 1% rescissions, P.L. 109-54 provided \$51.0 million for EPA's Office of Inspector General (OIG) for FY2006, similar to what the House, Senate, and Administration proposed and Congress appropriated for FY2005, although in differing amounts. As the House and Senate had proposed and the Administration had requested, the final appropriation included a transfer of \$13.5 million, prior to the rescissions, from the Superfund account for investigative oversight of that program. Congress has made a similar transfer of funds for this purpose in past years. For example, the FY2005 appropriation included a \$12.9 million transfer. The primary function of this office is to audit and investigate EPA functions to identify management, program, and administrative deficiencies, which may create conditions for instances of fraud, waste, and mismanagement of funds, and to recommend actions to correct these deficiencies.

Table 9. Office of Inspector General Account: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations

(millions of dollars)

FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
\$50.6	\$50.5	\$51.5	\$50.5	\$51.0

Note: All amounts are net Office of Inspector General funding, after transfer of funds from the Hazardous Substance Superfund account. The FY2006 enacted amount does not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. The FY2005 enacted amount does reflect the 0.8% across-the-board rescission in P.L. 108-447.

Buildings and Facilities

Prior to the 0.476% and 1% rescissions, P.L. 109-54 provided \$40.2 million for the Buildings and Facilities account for FY2006, the same as the House, Senate, and Administration had proposed. Congress appropriated \$41.7 million for FY2005. This account funds repairs, improvements, extensions, or alterations of buildings, facilities, or fixed equipment. It also funds new construction projects.

¹⁸ The act authorized a total of \$270 million in funding from FY2004 through FY2008 (\$54 million annually) to aid in the remediation of contaminated sediments in "areas of concern (AOCs) located wholly or partially in the United States." For information regarding EPA's Great Lakes Strategy, Great Lakes Task Force, and other efforts to address issues in the Great Lakes Basin, see <http://www.epa.gov/glnpo/>.

Table 10. Buildings and Facilities Account: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations
(millions of dollars)

FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
\$41.7	\$40.2	\$40.2	\$40.2	\$40.2

Note: The FY2006 enacted amount does not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. The FY2005 enacted amount does reflect the 0.8% across-the-board rescission required in P.L. 108-447, and it reflects the \$3.0 million supplemental appropriation provided in P.L. 108-324. (See CRS Report RL32581, *Supplemental Appropriations for the 2004 Hurricanes and Other Disasters*.)

Hazardous Substance Superfund

Prior to the 0.476% and 1% rescissions, P.L. 109-54 provided \$1.26 billion for the Superfund account for FY2006, similar to what the House and Senate had proposed, but less than the Administration had requested. In comparison, Congress appropriated nearly \$1.25 billion for FY2005. Prior to the two rescissions, P.L. 109-54 transferred \$30.6 million from the Superfund account to the Science and Technology account, and \$13.5 million to the Office of Inspector General, as the House, Senate, and Administration had proposed. After transfer of these funds, P.L. 109-54 provided a net amount of \$1.22 billion for the Superfund account prior to the rescissions. An amendment introduced during the House floor debate of H.R. 2361, but not adopted, would have provided an additional \$130 million for the Superfund account through an offsetting reduction within the Science and Technology account. **Table 11** indicates net funding for the Superfund account after the transfer of funds, but prior to the two rescissions.

Table 11. Hazardous Substance Superfund Account: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations
(millions of dollars)

FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
\$1,198.8	\$1,235.2	\$1,214.2	\$1,212.1	\$1,216.5

Note: The FY2006 enacted amount does not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. The FY2005 enacted amount does reflect the 0.8% across-the-board rescission in P.L. 108-447. All amounts indicate net Superfund funding levels, after the transfer of funds to the accounts for Science and Technology and the Office of Inspector General.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)¹⁹ created the Superfund program to clean up the nation's worst hazardous waste sites, and directed EPA to prepare a National Priorities List (NPL) to identify sites that present the greatest risk to human health and the environment. The Superfund account in EPA's budget funds the agency's efforts to remove contamination that presents an immediate risk, and to remediate contamination for which there is a potential pathway of exposure. This account also funds EPA's efforts to enforce CERCLA and to require potentially responsible parties (PRPs), including federal facilities, to remediate contamination. The Superfund account pays for the cleanup when there is no financially viable party at private sector sites. The costs of remediation at federal

¹⁹ 42 U.S.C. 9601 et seq.

facilities are paid by the federal agency that caused the contamination, rather than out of the Superfund account.

Among the major concerns associated with the Superfund account is whether the funding level is adequate to meet cleanup needs and protect human health and the environment. The pace of cleanup has been an ongoing issue. Some Members of Congress have asserted that steady funding for the Superfund program is sufficient to meet cleanup needs. Other Members, states, environmental organizations, and communities have countered that more funding is needed to maintain an adequate pace of cleanup. Completing the construction of cleanup remedies at a site is often used as a measure of the pace of cleanup, because in many cases, construction of such remedies must be finished before operation can begin to treat or contain waste as a means to prevent exposure. EPA reported that the FY2006 request would have allowed the construction of 40 remedial actions to be completed at Superfund sites in FY2006, lower than the annual average of about 67 over the past five years.

The most recent estimate of funding needs for the Superfund program was released in 2001 in a study by Resources for the Future (RFF), a private organization. Congress had directed EPA to fund this study, titled *Superfund's Future: What Will It Cost?* RFF estimated that between \$14 billion and \$16 billion in total funding would be necessary from FY2000 through FY2009 to meet cleanup needs, based on the number of NPL sites and severity of contamination at that time. At a minimum, RFF projected that annual expenditures of \$1.5 billion would be necessary through FY2006 to maintain an adequate pace of cleanup. Annual appropriations in recent years have been around \$1.25 billion, prior to transfers. As noted above, Congress appropriated \$1.26 billion for the Superfund account for FY2006, prior to transfers to two other accounts and the two rescissions.

The source of funding for the Superfund program also has been an ongoing issue. P.L. 109-54 funds the Superfund program with general Treasury revenues in FY2006, as the House, Senate, and Administration had proposed. Three dedicated taxes (on petroleum, chemical feedstocks, and corporate income) historically provided the majority of funding for the Superfund program. However, these taxes expired at the end of 1995, and the remaining revenues were essentially expended by the end of FY2003. Since then, Congress has funded the program with general Treasury revenues. Some Members advocate reinstating the Superfund taxes, and argue that the use of general Treasury revenues to fund cleanup costs undermines the “polluter pays” principle, spreading cleanup costs across all taxpayers. Other Members and the Administration counter that financially viable parties still pay for the cleanup, and that polluters are therefore not escaping their responsibility. In recent years, EPA has stated that approximately 70% of sites on the NPL are cleaned up by responsible parties. (See CRS Report RL31410, *Superfund Taxes or General Revenues: Future Funding Issues for the Superfund Program*.)

Cleanup of brownfields sites was funded within the Superfund account until FY2003, but funding for this activity is now provided within the State and Tribal Assistance Grants account and the Environmental Programs and Management account. (See discussions of these two latter accounts elsewhere in this report).

Leaking Underground Storage Tank Program

Prior to the 0.476% and 1% rescissions, P.L. 109-54 provided \$73.0 million for the Leaking Underground Storage Tank (LUST) Program account for FY2006, the same as the House, Senate, and Administration had proposed, but less than the \$69.4 million FY2005 appropriation. As discussed earlier, P.L. 109-148 also reallocated \$8 million in emergency funds to EPA for responding to leaking underground tanks in Gulf Coast states affected by Hurricanes Katrina and

Rita. The Administration had requested a reallocation of \$15 million for this purpose in October 2005.

The Superfund Amendments and Reauthorization Act of 1986 (SARA)²⁰ established the LUST Trust Fund to help EPA and states cover the costs of responding to releases from leaking underground storage tanks containing petroleum when no responsible party performs the cleanup. The trust fund is used primarily to implement the LUST program through state cooperative agreement grants, to oversee and enforce corrective actions by responsible parties, and to recover expended funds used to clean up abandoned tank sites. Roughly 80% of the appropriated amount goes to the states. (For further discussion, see CRS Report RS21201, *Leaking Underground Storage Tanks (USTs): Prevention and Cleanup*.)

Although the balance of the LUST Trust Fund exceeds \$2 billion, appropriations have been around \$70 million in recent years. Many state LUST programs report that they are understaffed and underfunded. States have asked Congress to provide more funds from the LUST Trust Fund to help them address more than 412,000 cleanups that are ongoing, and another 128,000 leaking tank sites that require remediation. Additionally, the presence of methyl tertiary butyl ether (MTBE) at many LUST sites is increasing the cost and complexity of cleaning up these sites. (See CRS Report RL32787, *MTBE in Gasoline: Clean Air and Drinking Water Issues*.)

Table 12. Leaking Underground Storage Tank Program Account: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations

(millions of dollars)

FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
\$69.4	\$73.0	\$73.0	\$73.0	\$73.0

Note: The FY2006 enacted amount does not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% rescission in P.L. 109-148. The FY2005 enacted amount does reflect the 0.8% across-the-board rescission in P.L. 108-447.

Oil Spill Response

Prior to the 0.476% and 1% rescissions, P.L. 109-54 provided \$15.9 million for EPA's Oil Spill Response account for FY2006, the same as the House, Senate, and Administration had proposed, and similar to the FY2005 appropriation (differences are not reflected in the table below due to rounding). While the U.S. Coast Guard responds to oil spills in coastal and inland navigable waterways, EPA responds to spills that occur on the land as a result of leaking pipelines, accidents in transport, or other events. Appropriations in this account only fund EPA's oil spill response activities. In recent years, EPA has reported that it responds to approximately 300 oil spills annually. EPA is reimbursed for site-specific response expenses from the Oil Spill Liability Trust Fund, administered by the U.S. Coast Guard.

²⁰ P.L. 99-499, Title V.

Table 13. Oil Spill Response Account: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations

(millions of dollars)

FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
\$15.9	\$15.9	\$15.9	\$15.9	\$15.9

Note: The FY2006 enacted amount does not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. The FY2005 enacted amount does reflect the 0.8% across-the-board rescission in P.L. 108-447.

State and Tribal Assistance Grants

Prior to the 0.476% and 1% rescissions, P.L. 109-54 provided \$3.18 billion for the State and Tribal Assistance Grants (STAG) account for FY2006, less than the Senate amount, but more than the House and the Administration had proposed. In comparison, Congress appropriated \$3.58 billion for FY2005. P.L. 109-54 also “rescinded” \$80 million from past fiscal year appropriations. The rescission was to be taken from past appropriations unobligated for grants, contracts, and interagency agreements, for which the funding authorization had expired. Although the language rescinding these past funds was included within the STAG account, the conference report on H.R. 2361 (H.Rept. 109-188, p.112) clarified that the \$80 million was rescinded from such grants, contracts, and interagency agreements that would have been funded within any EPA account. The House and Senate had proposed varying provisions for rescinding past year appropriations, which differed from the conference agreement, discussed below.

Table 14. State and Tribal Assistance Grants Account: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations

(millions of dollars)

FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
\$3,575.3	\$2,960.8	\$3,127.8	\$3,395.6	\$3,181.7

Note: The FY2006 enacted amount does not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. The FY2005 enacted amount does reflect the 0.8% across-the-board rescission in P.L. 108-447.

Unlike the House-passed bill, neither P.L. 109-54 nor the conference report on H.R. 2361 specified the activities to which the \$80 million in rescinded past year appropriations would be redirected in FY2006. The House-passed bill had specified that a rescission of \$100.0 million in unobligated funds from past appropriations would have been used for increasing support for the clean water State Revolving Fund (SRF) under the STAG account (see the discussion under “State Revolving Funds” in this section of the report). The Senate-passed bill included \$58.0 million in “rescinded” past year funds within the STAG account but, like the final bill, did not specify the allocation of these funds within EPA’s FY2006 appropriation.

Historically, the STAG account has represented the largest portion of EPA’s annual appropriation, and has comprised about 40% of the agency’s total budget in recent years. The majority of the funding within the account is for SRFs for water infrastructure projects. There are separate SRFs for clean water and drinking water projects. The *clean water* SRF provides funds for wastewater infrastructure, such as municipal sewage treatment plants. The *drinking water* SRF provides funds for drinking water treatment facilities and other projects needed to comply with federal

drinking water requirements. The remainder of the STAG account funds other water infrastructure grants, categorical grants to states and tribes for numerous pollution control activities, grants for the cleanup of brownfields, and grants for clean school buses. Selected funding issues regarding activities within the STAG account are discussed below.

State Revolving Funds

Prior to the two rescissions, P.L. 109-54 provided \$900 million for the clean water SRF for FY2006, less than the Senate amount, but more than the House and the Administration had proposed. In comparison, Congress appropriated \$1.09 billion for FY2005. Prior to the two rescissions, P.L. 109-54 provided \$850 million for the drinking water SRF, the same as the House, Senate, and Administration had proposed. Congress appropriated \$843 million for the drinking water SRF in FY2005. Together, both SRFs provide seed monies for state loans to communities for constructing and upgrading wastewater and drinking water infrastructure in order to meet federal requirements.

As noted in the table below, the House amount of \$850 million for the clean water SRF included \$100 million in the form of redirected unobligated balances from past EPA appropriations, which was not adopted in the final bill. As discussed earlier in this report, Congress also did not approve the Administration's subsequent request in October 2005 to rescind \$166 million from the FY2006 appropriation of \$900 million for the clean water SRF. The rescission would have taken away nearly all of the increase above the request that Congress provided and would have reduced the amount close to the Administration's original recommendation of \$730 million.

Table 15. Clean Water and Drinking Water SRFs: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations

(millions of dollars)

SRF	FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
Clean Water	\$1,091.2	\$730.0	\$850.0	\$1,100.0	\$900.0
Drinking Water	\$843.2	\$850.0	\$850.0	\$850.0	\$850.0
Use of Rescinded Funds	—	—	(\$100.0)	—	—
Total New Appropriations	\$1,934.4	\$1,580.0	\$1,600.0	\$1,950.0	\$1,750.0

Note: The FY2006 enacted amount does not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. The FY2005 enacted amount does reflect the 0.8% across-the-board rescission in P.L. 108-447. As passed by the House, H.R. 2361 included a total of \$1.7 billion for both SRFs combined, including \$1.6 billion in new appropriations and \$100 million in past funds unobligated for contracts, grants, and interagency agreements for which the funding authorization had expired.

The adequacy of the funding level for both SRFs has been contentious. In recent years, Congress has appropriated significantly more funding than the Administration has requested for the clean water SRF. There has been less disagreement between Congress and the Administration about the appropriate funding level for the drinking water SRF. Some Members have advocated substantial increases for both SRFs in response to local water infrastructure needs generally, and more specifically, to help communities comply with new standards for drinking water contaminants (e.g., arsenic and radium).

Two amendments to increase funding for the clean water SRF were introduced during the House floor debate on H.R. 2361. One amendment, which would have increased the clean water SRF by \$500 million, was rejected on a point of order. A second amendment would have increased

funding by \$100 million, but was not adopted. At the close of the House floor debate, the House did not agree to a motion to recommit the bill to the House Appropriations Committee to provide an additional \$242 million for the clean water SRF (Cong. Rec. H3674). An amendment introduced during the Senate debate that would have modified the formula for distributing SRF funds to the states was withdrawn. Earlier this year, in agreeing to the FY2006 budget resolution (S.Con.Res. 18), the Senate agreed to a floor amendment recommending \$1.35 billion for the clean water SRF in FY2006. The amendment was not included in the final FY2006 budget resolution (H.Con.Res. 95). As noted above, H.R. 2361, as passed by the Senate, would have provided \$1.1 billion in FY2006 for the clean water SRF.

Numerous studies have estimated the future capital needs for water infrastructure. EPA issued its most recent needs survey for the construction of wastewater treatment facilities in August 2003, estimating remaining needs at a total of \$181 billion nationwide over the long-term.²¹ EPA's latest drinking water needs survey, released in June 2005, projected that public drinking water systems need to invest \$277 billion over 20 years. Some stakeholder groups have projected higher funding needs than those estimated by EPA. In 2000, the Water Infrastructure Network (WIN), a coalition of state, municipal, environmental and labor groups, issued a report entitled, *Clean and Safe Water for the 21st Century*. This report estimated total wastewater and drinking water capital needs to be \$940 billion over the next 20 years, even more if operation and maintenance needs are included (which currently are not eligible for federal assistance). Of the \$940 billion amount, WIN estimates that 20-year capital funding needs for wastewater are about \$460 billion and for drinking water are about \$480 billion. WIN foresees a \$23 billion per year funding gap between needs and current spending: \$12 billion for wastewater and \$11 billion for drinking water.

Infrastructure Grants/Congressional Priorities (Earmarks)

As in recent years, another issue in the appropriations debate was the extent to which funding should be earmarked for water infrastructure projects in specific communities, rather than provided competitively through the SRFs. Whereas communities compete for loan funds provided through the SRFs, which must be repaid, earmarked funding is awarded noncompetitively as grants that require matching funds, but not repayment. As in recent appropriations, P.L. 109-54 included provisions within the STAG account limiting the amount of grants earmarked for water infrastructure to 55% of a project's total cost, requiring the recipient to provide a 45% match. EPA was authorized to waive the matching funds requirement in certain circumstances, if providing the non-federal match would place an onerous burden on the recipient. Whether the needs of these communities should be met with SRF loan monies or grant assistance has become controversial. (See CRS Report RL32201, *Water Infrastructure Projects Designated in EPA Appropriations: Trends and Policy Implications*.)

Prior to the two rescissions, P.L. 109-54 provided \$200 million in earmarked funding for FY2006 within the STAG account for water infrastructure grants, the same as the House and Senate had proposed. The conference report refers to these projects as "Infrastructure Grants/Congressional Priorities" (H.Rept. 109-188, pp. 106-112). They include wastewater, drinking water, and storm water infrastructure projects in geographic-specific locations. Congress earmarked \$309.5 million within the STAG account for these types of projects in FY2005. As in past years, the President's FY2006 budget did not include funding for such projects.

²¹ The survey did not provide a uniform planning horizon because of variability in community planning horizons across the country. The reported aggregate "needs" estimate represents a summary of capital expenditures that might be made at different points in time over multiple years. EPA, *Clean Watersheds Needs Survey 2000: Report to Congress*, August 2003, EPA-832-R-03-001, at <http://www.epa.gov/owm/mtb/cwns/2000rtc/toc.htm>.

In reporting its version of the FY2006 Interior bill, the House Appropriations Committee did not allocate the \$200 million among specific community projects, as has been the practice in past years by both the House and Senate Appropriations Committees. The House committee commented in its report that the allocation of these funds would be determined later in conference. The Senate Appropriations Committee had designated funding for specific water infrastructure projects in its report, which the Senate resolved with the House in the final bill. The conference negotiation resulted in the allocation of \$200 million in earmarked funding among 257 recipients identified in the conference report.

Other Water Infrastructure Grants

As in recent years, the Administration had requested additional funding for water infrastructure grants in three geographic-specific areas. Prior to the two rescissions, P.L. 109-54 provided the following amounts for these grants:

- \$50 million for wastewater infrastructure projects along the U.S./Mexico border, the same as the House, Senate, and Administration had proposed, and close to the FY2005 appropriation;
- \$35 million for the construction of wastewater and drinking water facilities in Alaska Native Villages, compared to \$15 million proposed by the House and the Administration, and \$40 million proposed by the Senate, all of which were less than the FY2005 appropriation of nearly \$45 million; and
- no funding for drinking water infrastructure improvements to the Metropolitano community water system in San Juan, Puerto Rico, as the Senate had proposed, whereas the House and the Administration had proposed to maintain funding at the same level as the FY2005 appropriation of \$4 million.

Categorical Grants

Prior to the two rescissions, P.L. 109-54 provided \$1.13 billion for FY2006 to support state and tribal “categorical” grant programs within the STAG account, similar to what the House, Senate, and Administration had proposed and Congress appropriated for FY2005, although in differing amounts. EPA categorical funds are generally distributed through multiple grants to support various activities within a particular media program (air, water, hazardous waste, etc.). These grants are used by states to support the day-to-day implementation of environmental laws, including a range of activities such as monitoring, permitting and standard setting, training, and other pollution control and prevention activities. Grant funding is also used for multimedia projects such as pollution prevention incentive grants, pesticides and toxic substances enforcement, tribal assistance, and environmental information.

EPA’s FY2006 budget justification had presented 23 individual categorical grant programs in six sub-categories: air and radiation, water quality, drinking water, hazardous waste, pesticide and toxic substances, and multimedia.²² Examples of grants within these subcategories include air quality grants to support fine particulate matter (PM_{2.5}) monitoring and data collection, water quality grants to support implementation of non-point source management programs, grant assistance for development and implementation of hazardous waste programs, pesticide program

²² For detailed descriptions of the individual grant programs, see *U.S. Environmental Protection Agency FY2006 Justification of Appropriation Estimates for the Committee on Appropriations* (EPA-205/R-05-001), at <http://www.epa.gov/ocfo/budget/index.htm>.

implementation and pesticide enforcement, and pollution prevention incentive grants. **Table 16** indicates enacted and proposed funding for each of the six subcategories of grant programs.

Table 16. Categorical Grants Funding: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations

(millions of dollars)

National Program Subcategory	FY2005 Enacted	FY2006 Request	H.R. 2361 House-passed	H.R. 2361 Senate-passed	P.L. 109-54
Air & Radiation	\$240.9	\$242.8	\$242.8	\$241.5	\$242.2
Water Quality	\$476.7	\$486.0	\$490.0	\$465.3	\$470.8
Drinking Water	\$115.4	\$116.6	\$116.6	\$115.4	\$115.7
Hazardous Waste	\$165.0	\$176.4	\$166.4	\$165.4	\$165.4
Pesticides & Toxics	\$ 50.6	\$ 50.9	\$ 50.9	\$ 50.9	\$ 50.9
Multimedia	\$ 88.1	\$108.8	\$ 84.8	\$ 84.0	\$ 84.8
Total	\$1,136.7	\$1,181.5	\$1,151.5	\$1,122.5	\$1,129.8

Note: FY2006 enacted amounts do not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. FY2005 enacted amounts do reflect the 0.8% across-the-board rescission in P.L. 108-447. The Hazardous Waste category includes funding for Brownfields categorical grants. Totals may not add due to rounding.

Within the multimedia categorical grants in the STAG account, neither P.L. 109-54, nor the House and Senate-passed bills, provided the \$23 million included in the Administration's FY2006 request for a new competitive grant program to support "results-oriented" environmental protection work. According to the EPA FY2006 budget justification, these grants, referred to as the "State and Tribal Performance Fund," were intended to help states and tribes "measure, document and improve the results of their environmental protection programs." The Administration had proposed the same amount of funding for this new grant program in its FY2005 budget request, but Congress did not appropriate any funding for it.

Brownfields Grants

Prior to the two rescissions, P.L. 109-54 provided a total of \$165.0 million for FY2006 for EPA's Brownfields Program, the same as the Senate amount, but less than the House and Administration had proposed. In comparison, Congress appropriated \$163.2 million for FY2005. This program provides assistance to states and tribes for the cleanup of abandoned, idled, or underutilized commercial and industrial sites. Funding for the Brownfields program is provided within the STAG account for grants to states and tribes for environmental cleanup. Funding for EPA's expenses to administer the program is provided within the Environmental Programs and Management account, discussed earlier in this report. **Table 17** indicates enacted and proposed funding within these two accounts for the Brownfields program. EPA had funded the program out of the Superfund account until FY2003. Once the land is cleaned up for reuse, grants for the economic redevelopment of brownfields traditionally have been awarded through the Department of Housing and Urban Development.

Table 17. Brownfields Funding: FY2005 Enacted, FY2006 Request, and Action on FY2006 Appropriations

(millions of dollars)

Account/ Activity	FY2005 Enacted	FY2006 Request	H.R. 2361 House- passed	H.R. 2361 Senate- passed	P.L. 109-54
STAG:					
Infrastructure	\$89.3	\$120.5	\$97.5	\$90.0	\$90.0
Categorical	\$49.6	\$60.0	\$50.0	\$50.0	\$50.0
EPM:					
Administrative	\$24.3	\$29.6	\$24.6	\$25.0	\$25.0
Total	\$163.2	\$210.1	\$172.1	\$165.0	\$165.0

Note: FY2006 enacted amounts do not reflect the 0.476% across-the-board rescission in P.L. 109-54 nor the 1% government-wide rescission in P.L. 109-148. FY2005 enacted amounts do reflect the 0.8% across-the-board rescission in P.L. 108-447.

In addition to specifying funding, P.L. 109-54 included an administrative provision that expanded eligibility for program grants or loans to include those who purchased property prior to the enactment of the Small Business Liability Relief and Brownfield Revitalization Act of 2001 (P.L. 107-118). This provision is similar to language that the House and Senate had proposed and that Congress has included in recent appropriations bills for the past several fiscal years. The provision in P.L. 109-54 applied only to FY2006 and, unlike the Senate bill, did not provide permanent authority. P.L. 109-54 did not include language providing authority to use a portion of brownfields site characterization and assessment grants for “reasonable” administrative expenses. The Senate had proposed permanent authority for the use of grant funding for this purpose.

Clean School Bus Initiative

Prior to the two rescissions, P.L. 109-54 provided \$7.0 million for FY2006 within the STAG account to fund cost-share grants awarded under EPA’s Clean School Bus Initiative.²³ The House had proposed \$10 million to continue this initiative, the same as the Administration had requested. The Senate had proposed \$1 million. In comparison, Congress appropriated just over \$7 million for FY2005. Although the funding level for this program is relatively small compared to other grant programs supported within the STAG account, there has been strong interest among states and local school districts seeking grants to retrofit or replace older, polluting diesel buses.

From its initial grant solicitation, EPA received more than 120 proposals from school districts, state and local agencies, and nonprofit organizations. These proposals sought a total of \$60 million in grants, which significantly exceeded appropriations of \$5 million each year in FY2003 and FY2004.²⁴ In response to the amount of funding sought by grant applicants, EPA requested \$65 million for the program in FY2005 to expand its support of diesel retrofit projects to reduce particulate matter, and for outreach efforts to raise awareness of the health risks posed to school children from diesel emissions. As noted above, Congress provided significantly less than this amount for FY2005, and the Administration followed by substantially reducing its request for FY2006.

²³ For information on grant awards, see <http://www.epa.gov/cleanschoolbus>.

²⁴ Congress provided the FY2003 and FY2004 appropriation in the Environmental Programs and Management account, rather than the STAG account.

Conclusion

Even after the 0.476% and 1% rescissions, P.L. 109-54 overall appropriated more funding for EPA in FY2006 than the Administration had requested, but provided less than Congress appropriated the previous fiscal year. As in past years, the largest portion of EPA's appropriation for FY2006 was allocated to the State and Tribal Assistance Grants (STAG) account. The adequacy of funding for this account was among the most prominent issues of congressional debate. The Administration's request to significantly reduce funding for the clean water state revolving fund (SRF) within the STAG account from \$1.09 billion in FY2005 to \$730 million in FY2006 was particularly contentious.

Prior to the two above rescissions, P.L. 109-54 provided \$900 million for the clean water SRF, a \$170 million increase above the \$730 million request but nearly a \$200 million decrease below the FY2005 appropriation of \$1.09 billion. Most of the increase relative to the request was made available by reducing funding for other activities within EPA's appropriation. In passing its version of the FY2006 Interior bill, the House had proposed \$850 million for the clean water SRF, including \$100 million rescinded from prior year appropriations. Amendments during the House debate to increase FY2006 funding for the clean water SRF closer to the FY2005 level were not adopted. The Senate had proposed \$1.1 billion in passing its version of the Interior bill, which was slightly above the FY2005 appropriation.

The extent to which Congress should designate or "earmark" funds for individual projects, locations, or institutions continued to be an issue. P.L. 109-54 provided less funding than Congress appropriated in FY2005 for projects identified in the conference report as "congressional priorities" (earmarks) within the Science and Technology, Environmental Programs and Management, and State and Tribal Assistance Grants accounts. Congress has traditionally awarded funding for these types of projects noncompetitively. The House Appropriations Committee had proposed a different approach for the earmarking of funds in the Science and Technology and Environmental Programs and Management accounts, recommending EPA award them competitively among past recipients of earmarked funds. This approach was not adopted in the final bill.

The adequacy of funding for the Superfund program to clean up hazardous waste sites also continued to be a prominent issue in the debate over EPA's appropriation. P.L. 109-54 provided more funding for the Superfund program than Congress appropriated for FY2005. During the debate, some Members questioned whether the increase was sufficient. They, along with states, environmental organizations, and others, argued that higher funding is necessary to adequately address the risks to human health and the environment from hazardous waste sites. Other Members and the Administration asserted that the proposed funding would be sufficient to meet cleanup needs.

In addition to the adequacy of funding for Superfund cleanup activities, the source of funds continued to be a point of contention in Congress. As the balance of the Superfund Trust Fund has been expended, the program is now supported with general Treasury revenues, leading some Members of Congress to advocate the reinstatement of the taxes on industry that once supported the trust fund. The Administration and other Members assert that individual polluters continue to pay for site cleanups and that a tax on industry as a whole is therefore not needed. Several bills were introduced in the first session of the 109th Congress to reinstate Superfund taxes, but did not receive further action. P.L. 109-54 continued the use of general Treasury revenues to support the Superfund program in FY2006.

EPA's use and consideration of intentional human dosing studies, whether conducted by EPA or others, for determining associated human health risks of pesticides were of interest to Members during the appropriations debate. Of particular interest were concerns about the adequacy of health safety standards for human research subjects and general ethical questions with respect to EPA's use of data from such studies. P.L. 109-54 included provisions directing EPA to complete relevant rulemaking according to specific congressional recommendations and banned the use of FY2006 funds to consider or to conduct human dosing studies in the agency's review of pesticides until a final rule is issued.

Throughout the debate, there were varying levels of interest in specific funding for other EPA activities as well. The ability to increase funding for projects or add new projects in FY2006 ultimately was affected by competing priorities of Congress to allocate limited funding to numerous federal agencies within the Interior appropriations bill, where EPA's funding now falls. EPA's funding was moved from the jurisdiction of the House and Senate Appropriations Subcommittee on Veterans Affairs, Housing and Urban Development (VA-HUD), and Independent Agencies to that of the Interior subcommittees beginning with the FY2006 appropriation. This was the result of a reorganization during the first session of 109th Congress that included the elimination of the VA-HUD and Independent Agencies appropriations subcommittee.

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